



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 14-044		Contact	Steven Robertson, 218-730-5295	
Application Type	Concurrent Use of Streets, 4th/5th Ave W		Planning Commission Date	May 13, 2014	
Deadline for Action	Application Date	April 11, 2014	60 Days	N/A	
	Date Extension Letter Mailed	April 22, 2014	120 Days	N/A	
Location of Subject	400-425 W Superior St				
Applicant	Brian Thun		Contact	bthun@maurices.com	
Agent	N.A.		Contact	N.A.	
Legal Description	010-0920-00550, 010-0920-00540				
Site Visit Date	May 6, 2014		Sign Notice Date	April 28, 2014	
Neighbor Letter Date	April 24, 2014		Number of Letters Sent	28	

Proposal

The applicant is seek a Concurrent Use Permit to work in the 4th and 5th Avenues West street easements. According the applicant, "a constrained site and the shallow elevation of bedrock require that the retention of soils at the property line of this project use battered Shotcrete walls and soil (anchors) in lieu of other temporary soil retention methods. These walls will occur at both the 4th Avenue West and the 5th Avenue West sides of the site. The top of the wall will be just below finished grade and left in place after construction. The location of the soil anchors will be below the utilities located in 4th and 5th Avenues West and also will be abandoned in place".

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-8	Commercial	Central Business Primary
North	F-8/F-5	Commerical/Residential/Govt	Central Business Primary
South	F-8/MU-C	Commerical	Central Business Primary
East	F-8	Commerical	Central Business Primary
West	F-8	Commerical	Recreation/Central Business Primary

Summary of Code Requirements (reference section with a brief description):

UDC Section. 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Central Business Primary: Encompasses a broad range of uses and intensities: Governmental campus, Significant retail, Entertainment and lodging, Opportunities for high-density housing, Central plaza, public/open space, and Public parking facilities.

Principle #3 - Support traditional economic base

Supporting Duluth's traditional economic foundation maintains jobs, tax base, and opportunity. Economic activity with specific location requirements may be subject to displacement or site competition with changes in real estate values. This traditional economic activity faces change as result of global economic patterns, changing markets, new regulation and aging of extensive infrastructure. Nevertheless, fundamentals remain and the economic contribution, sometimes taken for granted, is significant.

Note, this item is related to PL 14-043 and 45, additional requests for a concurrent use permits. Additional pictures and exhibits of this project can be found attached to PL 14-043.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

- 1) The applicant is intending to construct a large eleven story structure (office and parking structure) off of Superior Street, between 4th and 5th Avenue West. The applicant is requesting the ability to place obstructions in the public right of way to help support the proposed new structure. These obstructions will be walls and soil anchors that will be left in place after construction.
- 2) The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city. After construction is complete, the obstructions will be below the surface of the street and the general public will not be able to see or interact with the obstructions.
- 3) The City of Duluth requires Concurrent Use Permits to include liability insurance to indemnify the City against occurrences in the right of way. In addition, the City reserves the right to require the applicant to remove obstructions in the right of way upon written notification.
- 4) One written citizen comment was received (attached to staff report PL 14-043). Another citizen comment was heard expressing general concern to the impact on citizens who wish to use the skywalks and sidewalks during construction. City Engineering has expressed clear comments that all obstructions must not impact with private and public utilities already in the public right of way. City Engineer approval of proposed obstructions is required before the right of way is impacted. No additional agency comments were received.
- 5) Concurrent Use Permits require the City Council to approval or approval with modifications, with an ordinance. Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit or variance is not begun within 1 year.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff recommends that Planning Commission recommend approval of the Concurrent Use Permit with the following conditions:

- 1) The project be limited to, constructed, and maintained according to exhibits titled "Concurrent Use Permit 4th Avenue West" and "Concurrent Use Permit 5th Avenue West" dated 5/5/14, and concept exhibits titled "West Side 4th Avenue West" and "West Side 5th Avenue West" dated 5/1/14.
- 2) Applicant provide proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit prior to commencing work, and applicant obtain all required permits from the City or other applicable jurisdictions before commencing work.
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

2-N



MEMORANDUM

COMM. NO.: 2559.001.00
CLIENT: maurices / City of Duluth
PROJECT: maurices Headquarters / Duluth Parking Ramp
SUBJECT: Application for Concurrent Use Permit at 4th and 5th Avenues West
MEMO BY: Robert Skow
DATE: 5 May 2014
COPY: RSP File 04

The original application for the Concurrent Use Permit at 4th and 5th Avenues West shall be amended to include the shoring requirements for the excavation of the foundation for the proposed building. The new facility will be built to the property line limits, in accordance with the UDC requirements and goals, in order to maintain an urban edge and parking ramp dimensional needs. A constrained site and the shallow elevation of bedrock require that the retention of soils at the property line of this project use battered Shotcrete walls and soil (anchors) in lieu of other temporary soil retention methods.

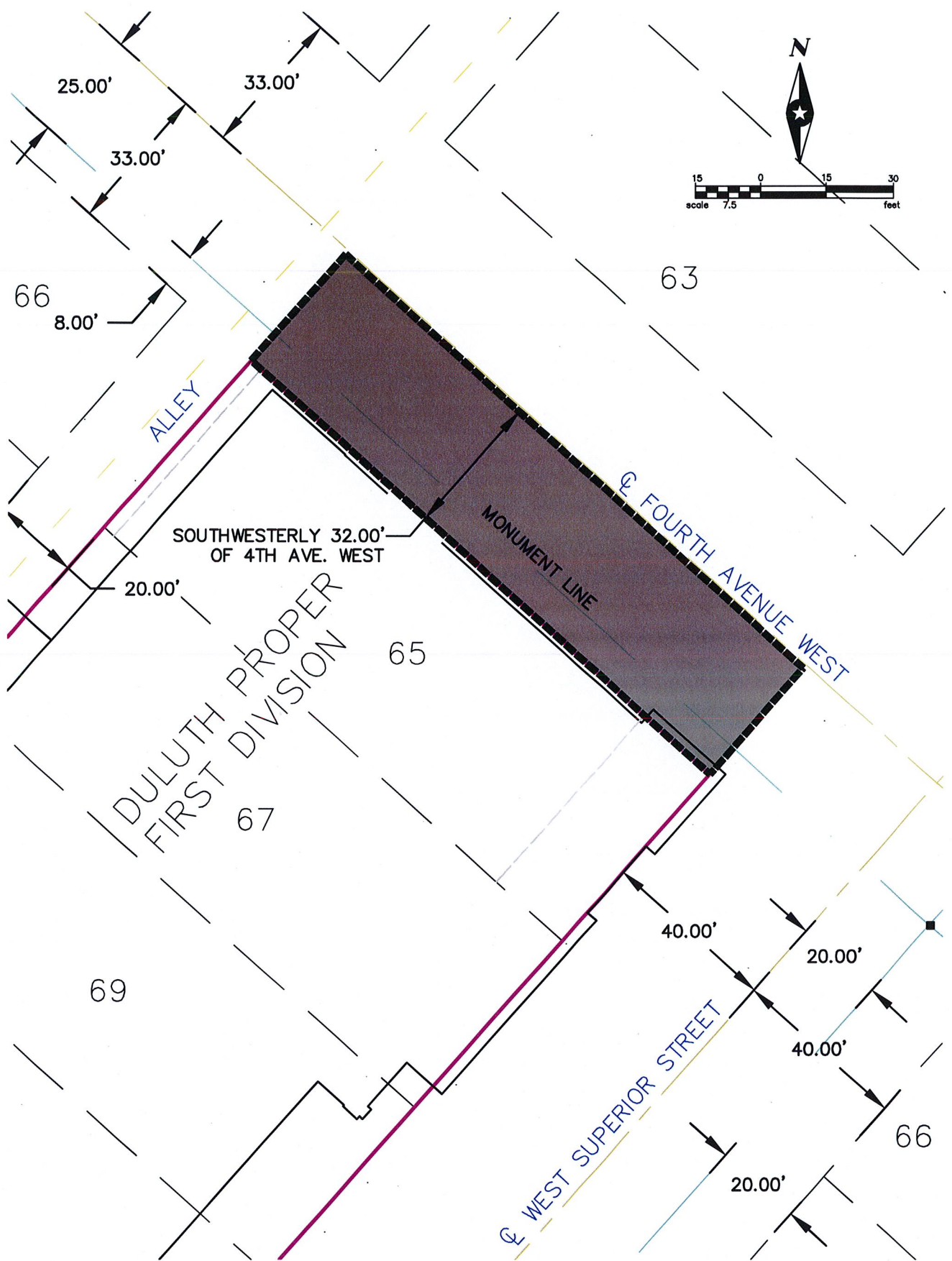
These walls will occur at both the 4th Avenue West and the 5th Avenue West sides of the site. The top of the wall will be just below finished grade and left in place after construction. The location of the soil anchors will be below the utilities located in 4th and 5th Avenues West and also will be abandoned in place. Refer to the attached Exhibits 2A, 2B, 3A and 3B for the locations and extent of the shoring system (Shotcrete wall and soil anchors). Refer to Preliminary Sections 1 and 2 for cross sections of the proposed soil retention system.

As-Built drawings of the abandoned earth retention system will be provided to the City, for their records, by the excavation contractor at the end of the project.

Attachment(s): Exhibits 2A, 2B, 3A, 3B; Preliminary Sections 1 and 2

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PHONE: 218.279.3000
 418 W SUPERIOR ST STE 200
 DULUTH, MN 55802-1512
 www.sehinc.com

FILE NO.
 RSPAR 125896

DATE:
 5/5/14

CONCURRENT USE PERMIT
4TH AVENUE WEST
DULUTH, MINNESOTA

EXHIBIT
NO. 3A

425 Building East

The Southwesterly 32.00 feet of Fourth Avenue West lying northeasterly and adjacent to Lot 65, West Superior Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

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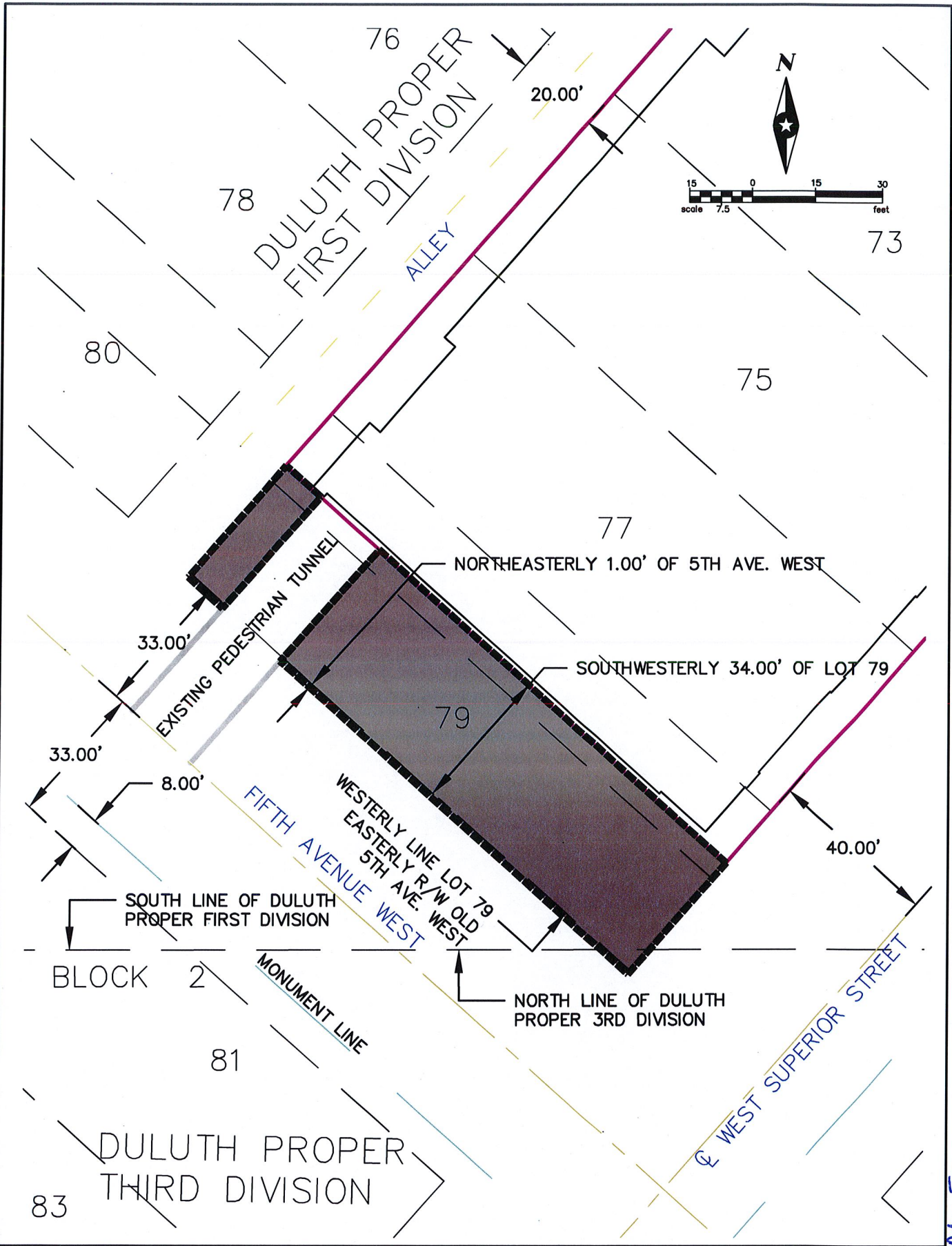
FILE NO.
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DATE:
5/5/14

**CONCURRENT USE PERMIT
4TH AVENUE WEST
DULUTH, MINNESOTA**

**EXHIBIT
NO. 3B**

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418 W SUPERIOR ST STE 200
DULUTH, MN 55802-1512
www.sehinc.com

FILE NO.
RSPAR 125896
DATE:
5/5/14

CONCURRENT USE PERMIT
5TH AVENUE WEST
DULUTH, MINNESOTA

EXHIBIT
NO. 2A

5-N

425 Building West

The Southwesterly 34.00 feet of Lot 79, West Superior Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota and the northeasterly 1.00 feet of 5th Avenue West lying southwesterly and adjacent to Lot 79, West Superior Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

LESS AND EXCEPT that part of an existing pedestrian tunnel which lies under and across part of said Lot 79 and adjacent Fifth Avenue West and running in a northeast to southwest direction.

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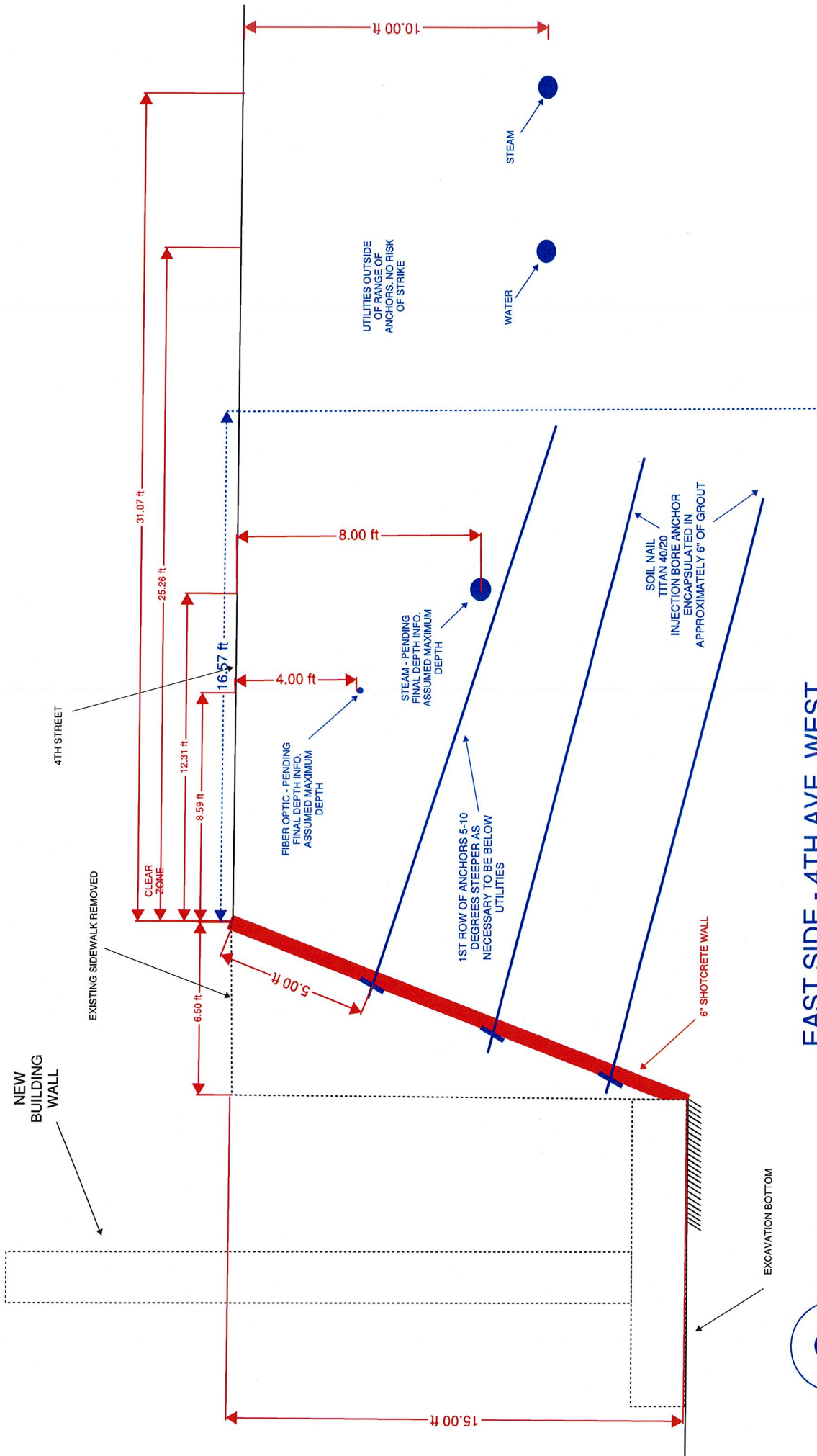
FILE NO.
RSPAR 125896

DATE:
5/5/14

**CONCURRENT USE PERMIT
5TH AVENUE WEST
DULUTH, MINNESOTA**

**EXHIBIT
NO. 2B**

9-N

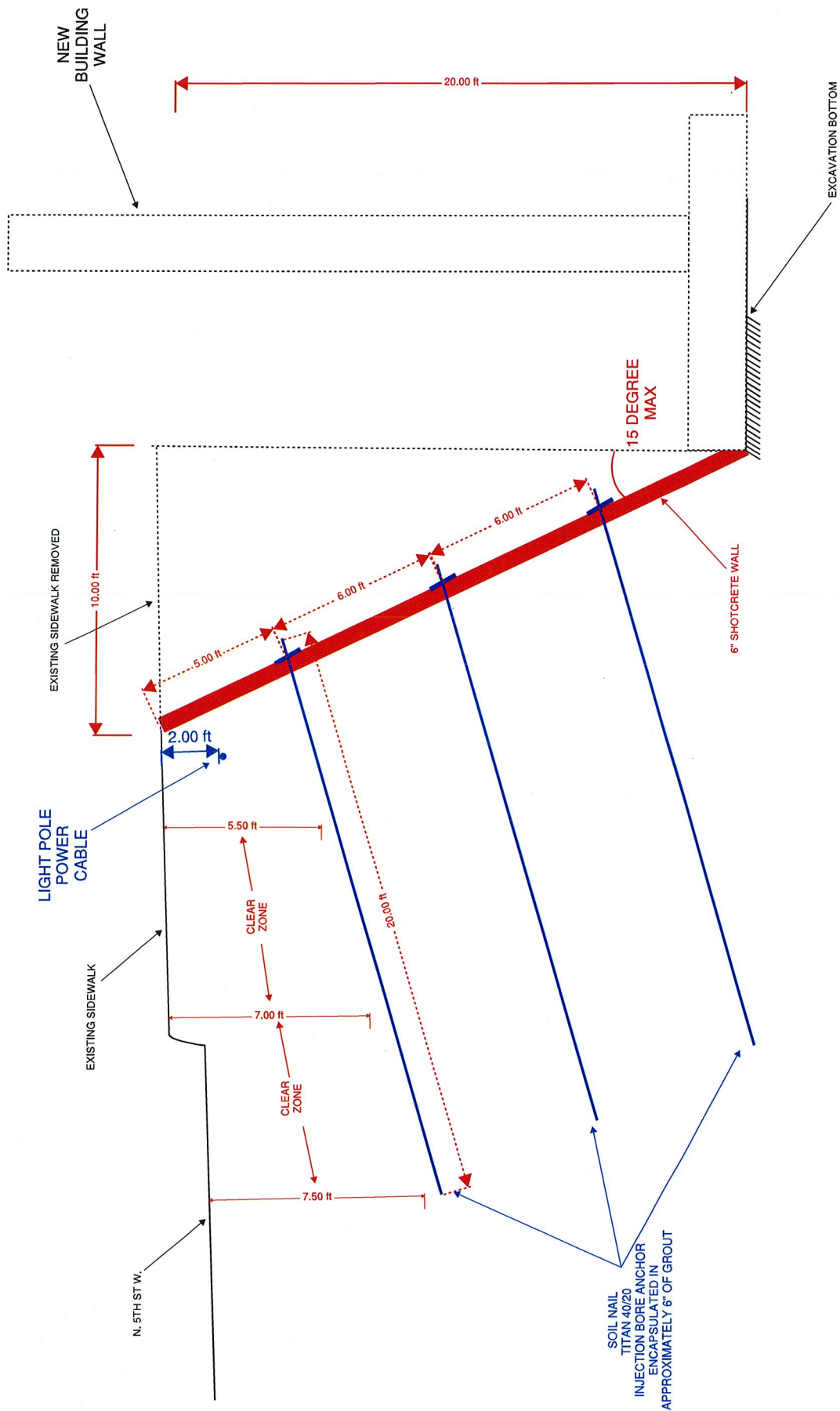


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EAST SIDE - 4TH AVE. WEST

*CONCEPTUAL DESIGN - ACTUAL INSTALLATION DISTANCES MAY VARY UPON INSTALLATION

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WEST SIDE - N. 5TH AVE. WEST

*CONCEPTUAL DESIGN - ACTUAL INSTALLATION DISTANCES MAY VARY UPON INSTALLATION

NTE - PAUL MARTIN - VEIT FOUNDATION GROUP - 5/1/2014

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